IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 170 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL SHAMBHUBHAI KACHRABHAI

Versus

PATEL DASHRATHBHAI GELABHAI

Appearance:

MR BG JANI for Petitioner

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 13/02/2001

ORAL JUDGEMENT

1. The present Revision Application is directed against the judgement and order passed in Civil Miscellaneous Appeal No. 85/1997 rendered on 10th November, 2000 by Assistant Judge, Mehsana at Patan. The said appeal arose out of an order passed by Civil Judge

(Junior Division) at Patan below Exh. 7 in Regular Civil Suit No. 151/1996 on 10th February, 1997.

2. The revisioner is the original plaintiff no. 2 who approached the Trial Court seeking injunction against defendants restraining them from obstructing the peaceful possession and user of Survey No. 13/1/D admeasuring 7 guntas which is claimed to be an unpartitioned property in possession of the plaintiff. The Trial Court after detailed perusal of the documents came to the conclusion that the plaintiff has no prima-facie case and ultimately rejected the application for temporary injunction. The stay was challenged in appeal before District Court and the learned Assistant Judge by the impugned order dismissed the appeal as well.

3. The plaintiff no. 2 has preferred this appeal. Plaintiff no. 1 has chosen not to prefer any appeal. Heard learned advocate Mr. B.G. Jani. He has taken this Court through the order of the Trial Court as well as appellate Court impugned herein. He has tried to draw the attention of this Court to panchnama which indicates that drainage water is passing through the Kharaba land. However, he could not meet with the requirement of Section 115 to indicate any jurisdictional error committed by the Court below. There is concurrent finding of two Courts rendered after detailed study of the documents on record. In absence of any jurisdictional error this Court is not inclined to exercise the Revisional Jurisdiction under Section 115 of Civil Procedure Code. This Revision Application stands rejected in limine. No costs.

(A.L. DAVE,J.)

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